IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

INCOME TAX REFERENCE NO.398 OF 1998

The Commissioner of Income-tax ..Applicant.

V/s.

Petrosil Oil Co. Limited ..Respondent.

Mr.A.S.Rao for applicant.

CORAM : V.C. DAGA AND J.P.DEVADHAR, JJ.

DATED : 21ST MARCH, 2005.

P.C. :-

1. Heard the learned counsel for the applicant. The Tribunal has referred the question for the opinion of this Court reading as under :-

> " Whether, on the facts and in the circumstances of the case, the Tribunal was right in law in holding that the disallowance out of salary and perquisites to employee-directors should be made under the provisions of section 40(c) and not Section 40A(5) of the I.T.Act, 1961 ? "

2. The above question has already been answered by the Division Bench of this Court in the case of **C.I.T. V/s. Hico Products Pvt.Ltd. (No.1) [(1993) 201 I.T.R. 567 (Bom.)** in favour of the assessee and against the revenue. In this view of the matter, question stands answered in affirmative for the reasons stated in the case of Hico Products (P) Ltd. Reference, accordingly stands disposed of with no order as to costs.

(V.C. DAGA, J.)

(J.P.DEVADHAR, J.)